

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRUCE E. GAMBILL JR.,

Plaintiff,

v.

UNITED STATES,

Defendant.

CASE NO. C12-6004 BHS

ORDER DENYING MOTION
FOR EMERGENCY RELIEF

This matter comes before the Court on Plaintiff Bruce E. Gambill's ("Gambill") motion to enjoin his forced eviction from his home and to set aside the fraudulent sale of his house (Dkt. 13). The Court has considered the pleadings filed in support of the motion and the remainder of the file. For the reasons stated herein, the Court denies the motion.

I. PROCEDURAL & FACTUAL BACKGROUND

On November 23, 2012, Gambill filed his complaint, along with his motions to proceed in forma pauperis and for a temporary restraining order (TRO) to nullify the foreclosure sale of his home as well as other documents. Dkts. 1, 1-1, 1-2, 1-3 & 1-4.

On December 12, 2012, the Court issued an order denying Gambill's motions to proceed

1 in forma pauperis and for a TRO, and dismissed the case. Dkt. 5. In brief, the Court
2 reasoned that while Gambill included many factual allegations or phrases, they did “not
3 amount to ascertainable causes of action.” *Id.* at 3. Nor did Gambill make clear who the
4 defendants were or which allegations Gambill was alleging against whom. *Id.* Based on
5 the Court’s review of Gambill’s submissions, it found them “almost entirely
6 incomprehensible” and his complaint legally frivolous such that he failed to “adequately
7 assert any ground to invoke this Court’s jurisdiction.” *Id.* at 3-4.

8 On December 18, 2012, Gambill filed a motion for reconsideration (Dkt. 6) and a
9 motion to proceed in forma pauperis (Dkt. 7) as well as a notice of appeal to the Ninth
10 Circuit (Dkt. 8). On December 26, 2012, the Ninth Circuit issued a briefing schedule.
11 Dkt. 9. On December 28, 2012, Gambill paid the Ninth Circuit’s filing fee. Dkt. 10. On
12 December 31, 2012, this Court issued an order denying Gambill’s motion for
13 reconsideration and his motion to proceed in forma pauperis. Dkt. 10.

14 On January 22, 2013, Gambill filed the instant emergency motion. Dkt. 13.
15 Among other allegations, many of which are repetitious of those made in earlier
16 pleadings relating to the foreclosure sale of his house and forced bankruptcy, Gambill
17 asks this Court to enjoin both what he calls the forced eviction from his home, scheduled
18 for 6:00 a.m. on January 24, 2013, and to set aside the fraudulent sale of his home. *Id.* at
19 11.

20 II. DISCUSSION

21 Once a notice of appeal is filed from a final judgment, the district court is divested
22 of jurisdiction. *Laurino v. Syringa General Hosp.*, 279 F.3d 750, 755 (9th Cir. 2002);

1 *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58- 59 (1982). In this case, the
2 Court has issued a final judgment, dismissing the case. Dkt. 5. Further, it has heard
3 Gambill's motion for reconsideration and denied it. Dkt. 10. Given that a final judgment
4 has been issued and this case is on appeal to the Ninth Circuit, this Court is divested of
5 the jurisdiction and cannot consider Gambill's motion.

6 **III. ORDER**

7 Therefore, it is hereby **ORDERED** that Gambill's emergency motion for relief
8 from his forced eviction and his request to set aside the fraudulent sale of his home (Dkt.
9 13) is **DENIED** because this Court lacks jurisdiction to hear the motion. Any further
10 relief Gambill seeks in this case must be directed to the Court of Appeals for the Ninth
11 Circuit.

12 Dated this 23rd day of January, 2013.

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15 **BENJAMIN H. SETTLE**
16 United States District Judge
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